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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,750	07/18/2003	Gary Crawford	CITC-1-1009	3136
7590	10/18/2004		EXAMINER	
Mark L. Lorbiecki, Esq. BLACK LOWE & GRAHAM PLLC 816 Second Avenue Seattle, WA 98104			HOGAN, JAMES SEAN	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,750

Applicant(s)

CRAWFORD, GARY

Examiner

James S Hogan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 9-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 7 is/are rejected.
- 7) ☒ Claim(s) 5 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-8, drawn to assembly, classified in class 239, subclass 311.
 - II. Claims 9-16, drawn to sub-part of assembly, classified in class 383, subclass 42.
 - III. Claims 17-20, drawn to method, classified in class 261 subclass Dig. 26.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination would be able to produce the necessary foaming using meshes of a non-fabric variety. The subcombination has separate utility such as a bagging device for a lawn implement or vacuum cleaner.
3. Inventions III and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the method claimed could be interpreted as a cleansing process for anything deliberately contained within the "sock".

4. Inventions II and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product as claimed can be used as a bagging device for a lawn implement or vacuum cleaner.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. During a telephone conversation with Mark L. Lorbiecki, Esq. on October 6, 2004 a provisional election was made without traverse to prosecute the invention of the assembly, claims 1-8. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-20 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

7. Claims 1-4,6-7 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,402,771 to Frey.

Referring to claims 1-2, 4, 6-7 Frey ('771) discloses an assembly for generating foam having a housing (1), a fan (3), a nozzle (6 and 7) and a permeable fabric covering used for foam generation. The housing includes a chamber with a first (2) and second orifice (4). As for claim 2, gas supply lines are deliberately placed within the air stream

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influence the air stream and therefore act as dams in that enhance the introduction of the foaming agent liquid, defined as a "class of tensides and is a quite specific aliphatic alcohol" (Col. 1, line 53) which qualifies, via the presence of tensides, as a surfactant.

As for claims 6-7, The Frey ('771) device utilizes a nylon cloth as a permeable fabric covering for foam-producing membrane that under the increased pressure supplied by the fan assembly will assume a sock-like shape. Nylon is also known in the prior art to be a fabric used for grass-clipping collection devices.

Claim Rejections - 35 USC § 103

8. Referring to claim 3, the invention of Frey ('771) discloses a "fan which produces a stream of air" (Col. 1, line 17) but does not disclose a squirrel-cage blower system. It would have been obvious to one skilled in the art at the time the invention was made to employ a squirrel-cage blower system in order to generate a higher volume of air in a foam generation system than a typical axial fan motor-and-blade system.

Allowable Subject Matter

9. Claims 5 and 8 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows:

U.S. Patent No. 4,531,588 to Brünsicke, disclosing a fire suppression system

U.S. Patent No. 4,653,591 to Marshall, disclosing a method of producing foam and foam generator

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S Hogan whose telephone number is (571) 272-4902. The examiner can normally be reached on Mon-Fri, 7:00a-4:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on (703) 308-1272. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JSH
10/12/2004



David A. Scherbel
Supervisory Patent Examiner
Group 3700